



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR)
AN ORDER AUTHORIZING ENKIDO, INC.)
TO PROVIDE LOCAL EXCHANGE AND)
INTEREXCHANGE TELECOMMUNI-)
CATIONS SERVICES THROUGHOUT)
NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE00040259

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated April 11, 2000, Enkido, Inc. (Petitioner or Enkido) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange and interexchange services throughout the State of New Jersey. In addition, Enkido responded to a staff questionnaire by letter dated September 25, 2000 and to Staff interrogatories by letters dated October 10, 2000, October 11, 2000, October 19, 2000, October 27, 2000, October 30, 2000, and November 1, 2000.

According to the petition, Petitioner was incorporated under the laws of the State of Delaware on June 8, 1999. Petitioner's principal offices are located at 401 Hackensack Ave., 5th floor, Hackensack, New Jersey, 07601. Petition at 4.

Petitioner submitted copies of its Articles of Incorporation, a Delaware Certificate of Good Standing and its New Jersey Authority to Operate as a Foreign Corporation. October 19, 2000 letter at 3. Petition at 4, Exhibit 1. October 10, 2000 letter at 3. According to the petition, Enkido was formed to provide local exchange and interexchange services. Petition at 4. Petitioner advised that Enkido is currently certified to provide facilities-based local exchange telecommunications services in New York, Ohio and Washington. Enkido has not been denied authority to provide telecommunications services in any state. In addition, Enkido has no pending civil, criminal or administrative actions against it. Enkido has no pending interconnection agreements before this Board.

In its petition, Petitioner advised that it seeks authority to provide local exchange and interexchange telecommunications services to business customers throughout New Jersey. Enkido plans to offer both local and interexchange dedicated data service. Petition at 3, 4.

Service to end users will be accomplished both through Enkido's own network as well as through resale of the services of other carriers. Petition at 6, Exhibit 4.

Petitioner will keep its books and records in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey.

Petitioner has asserted that approval of its petition will further the public interest by expanding the availability of affordable end-to-end bandwidth. Petitioner also states that approval of its petition will enhance the telecommunications infrastructure by increasing efficiency in addition to providing new choices and cost savings. November 1, 2000 letter at 2.

With regard to its technical and managerial qualifications, Enkido stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 5. Petitioner submitted the professional biographies of its key personnel who, according to Enkido, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry. Petition at 5, Exhibit 3.

Petitioner has also submitted pro forma balance sheets and income statements for the entire company, which includes other jurisdictions that Enkido plans to operate in within the pro forma time frame. Enkido has indicated that its New Jersey operations will account for approximately 10% of the company's business over the next two years. October 11, 2000 letter at 2, 3. October 27, 2000 letter at 1.

In its letter to the Board dated July 20, 2000, the Division of the Ratepayer Advocate (RPA) reserved recommending approval pending the receipt of additional financial and technical information. On November 22, 2000, RPA indicated that, based on answers to staff interrogatories, the RPA recommended approval.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. § 253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. § 253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Enkido's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariff. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board.

DATED: 12/21/00

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
BOARD SECRETARY